

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LOBNA ELKHAYYAT
Plaintiff,

vs.

TURK HAVA YOLLARI, A.O.
Defendant,

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Civil Action No. 4:19-CV-04450

PLAINTIFF'S FIRST AMENDED COMPLAINT
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PARTIES

1. Plaintiff Lobna Elkhayyat is an individual residing in Fort Bend County, Texas.

2. Defendant Turk Hava Yollari, A.O. (d/b/a Turkish Airlines) ("Turkish Airlines") is a foreign company organized in Turkey. This Defendant has answered and appeared.

VENUE AND JURISDICTION

3. State-court venue in this cause is proper in Harris County, Texas because Defendant maintains its principal office in the State of Texas in Harris County, and the flight at issue departed from Houston, Harris County, Texas. Thus, venue in this removed case is proper in this district and division.

4. Jurisdiction over this Defendant is proper because this Defendant conducts substantial, systematic, and continuous business in the State of Texas, and because the subject matter of this suit concerns a flight from Houston, Texas, and arises from the Defendant's contacts with the forum state.

5. Further, jurisdiction and venue is proper under Article 33 of the Montreal Convention. The Plaintiff's principal and permanent residence is in this district, this is the district where the contract for the flight at issue was made, and this is the district from where the flight at issue departed.

FACTS

6. Plaintiff Lobna Elkhayyat was a passenger aboard Turkish Airlines Flight No. 34 from Houston, Texas to Istanbul, Turkey.

7. Flight No. 34 departed Houston, Texas on March 30, 2018.

8. The flight at issue was operated by Defendant, Turkish Airlines.

9. Upon information and belief, the aircraft at issue was owned by Defendant, Turkish Airlines.

10. Elkhayyat was seated in an aisle seat, in the first row of economy class.

11. A few hours into the flight, on multiple occasions, an employee of Turkish Airlines stepped on Elkhayyat's foot.

12. As a result of these incidents, Elkhayyat sustained serious injuries to her foot.

THE MONTREAL CONVENTION

13. Turkish Airlines is a common carrier engaged in the international carriage of persons under Article 1 of the Montreal Convention.

14. The Montreal Convention applies in this case.

15. The United States has adopted and/or ratified the Montreal Convention.

16. Turkey has adopted and/or ratified the Montreal Convention.

17. At the time she was injured, as described above, Lobna Elkhayyat was a passenger aboard a Turkish Airlines aircraft, Flight 34, from Houston, Texas to Istanbul, Turkey.

18. The acts and events as set forth above constitute an accident that took place on board the aircraft. The event and happening described above was unexpected and unusual, and external to Ms. Elkhayyat.

19. The accident described above was singularly or collectively a link in the chain of causation that resulted in the injuries and damages to Ms. Elkhayyat.

20. Turkish Airlines is bound by the provisions of the Montreal Convention.

21. Turkish Airlines is liable, under the Montreal Convention, for the damages sustained by Ms. Elkhayyat.

22. Turkish Airlines has the burden to disprove any negligence related to the injuries to Ms. Elkhayyat.

NEGLIGENCE

23. Alternatively, to the extent the Defendant claims the Montreal Convention does not apply, the Defendant is liable for its negligence and the negligence of its agents and employees.

24. At all relevant times, Turkish Airlines was a common carrier for hire, owing the highest duty of care to its passengers.

25. The acts and omissions of Turkish Airlines, including that of its agents and employees, breached that duty and the duty of reasonable care. These acts and omissions constitute negligence.

26. Such acts and omissions constitute a link in the chain of causation and a proximate cause of the injuries and damages of Ms. Elkhayyat.

DAMAGES

27. As a direct and proximate result of the accident and negligence described above, plaintiff has suffered and will continue to suffer damages including physical pain, mental anguish, physical impairment, loss of earning capacity, disfigurement, and medical expenses.

28. The accident described above was significantly or collectively a link in the chain of causation that resulted in the injuries and damages to Elkhayyat.

29. Plaintiff also seeks interest and costs of court.

DEMAND FOR JURY

30. Plaintiff demands a jury trial and has tendered the appropriate fee with her original petition.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein and that upon final trial hereof, Plaintiff have:

1. Judgment against the Defendant for a sum within the jurisdictional limits of the Court;
2. Pre-judgment and post-judgment interest as provided by law;
3. Costs of suit; and,
4. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

THE KRIST LAW FIRM, P.C.

By: /s/ Scott C. Krist.

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CERTIFICATE OF SERVICE

I certify that I filed this Plaintiff's First Amended Complaint on February 14, 2020 electronically, and that a true and correct copy of the foregoing will be served on counsel of record via the Electronic Case Filing System of the United States District Court for the Southern District of Texas, Houston Division.

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/s/ Scott C. Krist

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